

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

SEP 30 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0200-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
AMADI SCHALON CANNON,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20071520

Honorable Richard S. Fields, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Amadi S. Cannon

Winslow
In Propria Persona

B R A M M E R, Presiding Judge.

¶1 After a jury trial, petitioner Amadi Cannon was convicted of sale of a narcotic drug. The trial court found Cannon had two historical prior felony convictions and sentenced him to a partially mitigated, twelve-year prison term. We affirmed his convictions and sentences on appeal. *State v. Cannon*, No. 2 CA-CR 2008-0250

(memorandum decision filed Jan. 23, 2009). Cannon now seeks review of the court's summary dismissal of his pro se petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P.

¶2 In his petition below, Cannon alleged trial counsel rendered ineffective assistance because he (1) failed to argue the legislature had not intended A.R.S. § 13-3408(A)(7) to encompass Cannon's transaction with an undercover police detective and (2) failed to challenge jury instructions that, according to Cannon, misstated the elements of the offense.¹ He also argued that portions of the undercover officer's testimony were inconsistent and amounted to perjury and that the jury was instructed erroneously, in violation of his due process rights. The trial court found Cannon had failed to state a colorable claim under Rule 32 and summarily denied relief. This petition for review followed.

¶3 On review, Cannon asserts the same arguments he raised below. We will not disturb a court's summary denial of post-conviction relief unless the court has abused

¹Section 13-3408(A)(7) provides, "A person shall not knowingly . . . [t]ransport for sale, import into this state, offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer a narcotic drug." Although Cannon's claim is not entirely clear, he appears to have argued he was wrongly convicted of selling narcotics because he did not have illegal drugs on his person when the undercover detective asked him to purchase crack cocaine and because the transaction did not involve a "hand-to-hand" exchange. According to Cannon, he got in the detective's vehicle and directed him to drive to a residential area. The detective then gave Cannon sixty dollars, and Cannon entered a house and returned with a piece of crack cocaine, which he placed on the vehicle's console. In his reply in the proceeding below, Cannon abandoned additional claims related to whether the cocaine exceeded the threshold amount set forth in A.R.S. § 13-3401(36)(c).

its discretion. *See State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). We find no such abuse here.

¶4 First, Cannon’s claims of perjured testimony and erroneous jury instructions are claims of trial error that he waived by failing to raise them on appeal; they therefore are precluded. *See Ariz. R. Crim. P. 32.2(a)(1), (3)*. Although the trial court considered whether trial counsel had been ineffective in failing to address allegedly perjured testimony, our review indicates Cannon had not stated his claim of perjury in the context of ineffective assistance of counsel. In all other respects, however, we adopt that court’s ruling on Cannon’s ineffective assistance claims. The court thoroughly addressed these claims and correctly resolved them, and no purpose would be served by restating the court’s analysis here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when court correctly identifies and rules on issues raised “in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court[’s] rehashing the trial court’s correct ruling in a written decision”).

¶5 Accordingly, we grant review but deny relief.

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge